

NTSB Order No. EA-4475

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 6th day of August, 1996

Docket SE-14225

amended clearance.² Respondent has filed a two-page brief in support of his appeal from that decision, and the law judge's refusal to reconsider it,³ but he has not in that document identified any basis for a conclusion that the law judge erred in his rulings.⁴ The appeal will, therefore, be denied.

An appeal brief that essentially does no more than register a party's disagreement with a law judge's decision does not satisfy the requirements of the Board's Rules of Practice, 49 CFR Part 821, which specify, in Section 821.48(b), that an appeal brief must

set forth in detail the objections to the initial decision, and shall state whether such objections are related to

²FAR sections 91.123(a) and 91.13(a) provide as follows:

§ 91.123 Compliance with ATC clearances and instructions.

(a) When an ATC clearance has been obtained, a pilot in command may not deviate from that clearance, except in an emergency, unless that pilot obtains an amended clearance. However, except in Class A airspace, this paragraph does not prohibit that pilot from canceling an IFR flight plan if the operation is being conducted in VFR weather conditions. When a pilot is uncertain of an ATC clearance, that pilot must immediately request clarification from ATC.

§ 91.13 Careless or reckless operation.

(a) *Aircraft operations for the purpose of air navigation.* No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

³A copy of the law judge's January 14, 1996 order denying respondent's motion for reconsideration is attached.

⁴The Administrator has filed a reply opposing the appeal.

alleged errors in the law judge's findings of fact and conclusions or alleged errors in his order. It shall also state the reasons for such objections and the relief requested.

While the respondent's brief does provide some elaboration as to his reasons for contesting the FAR section 91.13(a) charge in the Administrator's order of suspension, which served as the complaint, it does not demonstrate why he believes the law judge could not accept as dispositive the justification for summary judgment that the Administrator relied on with respect to that charge.⁵

The respondent's brief also does not indicate why he believes the law judge should not have accepted the Administrator's explanation for his denial that a settlement of the matter had been agreed to by the parties before the order of suspension was issued, and it does not identify the importance we should attach, in a proceeding in which service of sanction has been waived, to respondent's view that a 30-day suspension for an inadvertent altitude deviation that produced no actual endangerment is excessive.

⁵Respondent complains that the Administrator advanced no evidence that his admitted deviation from an altitude clearance had endangered anyone. However, apart from the fact that the FAR section 91.13(a) charge was sustainable as residual to the FAR section 91.123(a) charge, the Administrator, in his motion for summary judgment, asserted that a potential endangerment had been created by the altitude deviation because it caused a loss of standard airspace separation between respondent's aircraft and another aircraft. Respondent's brief does not explain why this circumstance, whose underlying facts he has not challenged, should not be deemed adequate for purposes of the careless endangerment charge.

Since, as the foregoing discussion shows, the respondent has not presented any rationale for disturbing the law judge's determination that summary judgment was appropriate in this proceeding, his appeal must be rejected.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's appeal is denied.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.